

Travel Calendar  
October 17, 2007  
Ogden, Utah

**Note:** This case summary has been prepared for educational purposes only, as a convenience for students, the public, and the press. It has been prepared by court staff and does not necessarily reflect the judges' views about the case.

Summary of Ward v. IHC

Terry Ward suffered brain injuries while undergoing a hernia operation. Ward's wife, who is the plaintiff in this case, settled out of court with the anesthesiologist and his employer, Mountain West Anesthesia, LLC (Mountain West). Mrs. Ward then brought a lawsuit against McKay-Dee Hospital (the hospital), claiming that the hospital is vicariously liable for the negligence of the anesthesiologist. The hospital filed a third-party claim against Mountain West, seeking to have Mountain West reimburse the hospital for any amount awarded against the hospital pursuant to an existing indemnification agreement between the two organizations. In entering judgment for the hospital, the trial court ruled that the settlement agreement between Mrs. Ward and Mountain West required Mrs. Ward to indemnify Mountain West for any other claims arising out of the surgery, including the claim for indemnification that the hospital asserted in its third-party complaint. Therefore, if a judgment were entered against the hospital, that judgment would have to be paid by Mountain West, who would then be reimbursed by Mrs. Ward.

Mrs. Ward claims that the terms of her settlement agreement with Mountain West are contained within one integrated document and that the trial court erred in considering an earlier document as part of the agreement. This earlier document requires Mrs. Ward to indemnify Mountain West "from all claims . . . arising from or in any way connected" to the surgery, while the later document is silent on the issue. Mrs. Ward claims that she is not contractually obligated to indemnify Mountain West because the later document supersedes the earlier document and contains no indemnification clause, thereby breaking this circular indemnification link between the parties and enabling her to recover a meaningful award from the hospital.